

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

NATHAN ROBERTS, et al.,

:

Plaintiffs,

:

No. 1:23-cv-01597

v.

:

Hon. Patricia A. Gaughan

PROGRESSIVE PREFERRED
INSURANCE COMPANY, et al.,

:

Mag. Judge James E. Grimes, Jr.

Defendants.

**CONSENT MOTION OF THE EQUAL PROTECTION PROJECT OF THE LEGAL
INSURRECTION FOUNDATION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF**

Pursuant to Federal Rule of Civil Procedure 7(b), the Equal Protection Project (EPP) of the Legal Insurrection Foundation respectfully requests leave of this Court to file the accompanying brief as *amicus curiae*. All parties have consented to EPP filing an *amicus* brief.

There is no Federal Rule of Civil Procedure that applies to motions for leave to appear as *amicus curiae* in a federal district court, but district courts have discretion to grant leave and often look to Rule 29 of the Federal Rules of Appellate Procedure for guidance. District courts in this Circuit have permitted *amicus* participation. See, e.g., *Verble v. Morgan Stanley Smith Barney, LLC*, No. 3:15-cv-74-TAV-CCS, 2015 WL 12930320, at *1 (E.D. Tenn. Apr. 9, 2015) (citing cases).

The Equal Protection Project (EPP) of the Legal Insurrection Foundation (LIF),¹ a Rhode Island tax-exempt 501(c)(3), is devoted to the fair treatment of all persons without regard to race or ethnicity. Our guiding principle is that there is no “good” form of racism. The remedy for racism never is more racism.

¹ <https://legalinsurrectionfoundation.org/>.

Since its creation in February 2023, EPP has filed more than twenty civil rights complaints, in various fora, against governmental or federally funded entities that have engaged in racially discriminatory conduct in various forms, and its work is ongoing. EPP transparently updates the public on all of its activities at EPP's own website.²

While EPP supports Plaintiffs' arguments in favor of denial of Defendants' motions to dismiss, EPP submits this brief to address three areas squarely in EPP's experience: (i) the societal trend toward increased racial discrimination in the name of anti-racism, which the Court's potential grant of Defendants' motions to dismiss, if left unchecked, will facilitate, (ii) the destructive effects and irreparable harm resulting from racially discriminatory conduct, and (iii) the broad protections afforded by civil rights statutes, including 42 U.S.C. § 1981, which protect citizens of all races from racially discriminatory contract.

This motion is filed in the interest of justice and without intent to delay. Defendants' Reply to Plaintiffs' Opposition to Defendants' Motions to Dismiss is due April 22, 2024.³ The Court previously granted the unopposed motion to file the brief submitted by *amicus curiae* the Southern Poverty Law Center ("SPLC"), Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee"), the Hispanic National Bar Association ("NHBA"), and Asian Americans Advancing Justice – AAJC ("Advancing Justice – AAJC") (collectively, "SPLC") on February 20, 2024.⁴ No party will be prejudiced by the granting of this motion.

For these reasons, *amicus curiae* EPP respectfully urges the Court to grant this Consent Motion for Leave to File the attached brief and enter an order requiring such submission.

Respectfully submitted,

² <https://equalprotect.org/>.

³ Text-only Order, Jan. 12, 2024.

⁴ Dkt. No. 36, filed February 16, 2024; Text-only Order, February 20, 2024.

/s/ William A. Jacobson

William A. Jacobson*

James R. Nault*

EQUAL PROTECTION PROJECT of the

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**Pro hac vice application forthcoming*

/s/ Robert J. Gargasz

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Counsel for Proposed Amicus Curiae

Equal Protection Project of the Legal Insurrection Foundation

CERTIFICATE OF CONFERENCE

I certify that, on March 11, 2024, I conferred via email with counsel for Plaintiffs and Defendants as to their position regarding this motion. Counsel for Plaintiffs and counsel for Defendants responded via email that they consented to the relief requested in this motion.

March 28, 2024

/s/ James R. Nault
James R. Nault

CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2024 a true and correct copy of the foregoing *Motion of Equal Protection Project of the Legal Insurrection Foundation for Leave to File Amicus Curiae Brief* was filed electronically with the Clerk of the Court for the United States District Court for the Northern District of Ohio, Eastern Division, and was thereby served upon counsel via operation of the Court's CM/ECF system pursuant to Local Rule 25.1(h).

March 28, 2024

/s/ Robert J. Gargasz
Robert J. Gargasz

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[PROPOSED] ORDER

CONSIDERING the Consent Motion of the Equal Protection Project of the Legal Insurrection Foundation for Leave to File *Amicus Curiae* Brief;

IT IS HEREBY ORDERED that the motion is GRANTED and that the Brief of the Equal Protection Project of the Legal Insurrection Foundation as *Amicus Curiae* in Support of Plaintiffs, attached to the Motion for Leave, is hereby filed into the record.

CLEVELAND, OHIO this ____ day of _____, 2024.

JUDGE PATRICIA A. GAUGHAN
UNITED STATES DISTRICT
COURT
NORTHERN DISTRICT OF OHIO